

**REMARKS:**

In the Office Action the Examiner noted that claims 1-28 are pending in the application, and the Examiner rejected all claims. By this Amendment, claims 1, 10, and 19 have been cancelled without prejudice or disclaimer, claims 2, 3, 5, 9, 11, 12, 14, 18, 20, 21, 23, 27 and 28 have been amended. No new matter has been presented. Support for the amendments can be found in at least page 22, lines 17-25; page 26, lines 17 through page 27, line 7 and Figs. 1 and 5 of the Specification as filed.

Thus, claims The Examiner's rejections are traversed below, and reconsideration of all rejected claims is respectfully requested.

**REJECTION UNDER 35 U.S.C. § 103(a):**

- A. Claims 1-2, 9-11, 18-20, and 27-28 were rejected as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of U.S. Patent No. 6,694,389 (Coates).

As mentioned above, claims 1, 10, and 19 have been cancelled without prejudice or disclaimer. Applicants respectfully traverse the Examiner's rejections of the remaining claims.

AAPA does not teach or suggest selectively and "dynamically switching" to either said first system or said second system according to the number of the enqueued control blocks monitored", where "when the number of the enqueued control blocks is not larger than a predetermined number immediately after said switching to said second system, said switching maintains execution to the second system for a predetermined time and thereafter switches the system to said first system ", for example, as recited in claim 1. See also independent claims 11, 20 and 28 reciting similar features.

In contrast to the claimed invention, what the Examiner refers to AAPA discusses two separate systems where each exclusively operates in only a particular corresponding mode. Specifically, Applicants respectfully submit that the alleged AAPA does not teach or suggest selective use of "first system" or "second system" based on determination of whether the number of the enqueued control blocks is larger than a predetermined number or not, as taught by the claimed invention (see, claims 2, 11, 20 and 28).

Further, as Coates merely discusses monitoring whether the fullness of a buffer is above or below a certain threshold and controlling the transfer rate based on the monitoring (see, col. 3, lines 36-50), Coates does not cure the deficiencies of AAPA regarding the independent claims of the present application.

The present invention solves a problem not addressed by AAPA and Coates. For example, due to the likelihood of a large load when the switch to the second system occurs and not many ACBs are accumulated in the queue and the possibility that the load is quickly decrease is unlikely, the claimed invention “maintains” the execution to the second system for a period of time to avoid occurrence of unnecessary frequent switching operation (i.e., until it is determined that the load is actually decreased).

It is respectfully submitted that AAPA and Coates do not teach or suggest the claimed invention including “when the number of the enqueued control blocks is not larger than a predetermined number immediately after said switching to said second system, said switching maintains execution to the second system for a predetermined time and thereafter switches the system to said first system”, as recited in the independent claims.

Further, even assuming arguendo that AAPA and Coates did disclose the features discussed by the Examiner, Applicants respectfully submit that there is no motivation to combine the cited references. The Examiner stated that the combination of the references would be obvious for the benefit of implementing a robust flow control ensuring the buffer does not become full (congested) or empty (starved) during transmission of data.

MPEP §2143.01 states that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. Therefore, as there is no requisite motivation to combine the references cited by the Examiner, the Applicants respectfully request the withdrawal of the Examiner’s §103 rejections.

The record, however, fails to provide the required evidence of a motivation for a person of ordinary skill in the art to perform such modification. While Coates may provide a reason for controlling a transfer rate based on whether the fullness of a buffer is above or below a certain threshold, the alleged AAPA fails to suggest why a person of ordinary skill in the art at the time of the invention would be motivated to incorporate controlling a transfer rate based on whether a buffer is above or below a certain threshold such as discussed in Coates.

In other words, an attempt to bring in the isolated teaching of Coates into the AAPA system would amount to improperly picking and choosing features from different references without regard to the teachings of the references as a whole. While the required evidence of motivation to combine need not come from the applied references themselves, the evidence must come from *somewhere* within the record.

It is respectfully submitted that the asserted AAPA and Coates do not teach or suggest selective switching between two systems based on the number of the enqueued control blocks.

Therefore, withdrawal of the rejection is respectfully requested.

- B. Claims 3-8, 12-17, and 21-26 were rejected as being unpatentable over AAPA in view Coates and further in view of U.S. Patent No. 6,922,743 (Mizuno).

For at least the above mentioned reasons with respect to the independent claims, dependent claims 3-8, 12-17, and 21-26 are also patentably distinguishable over AAPA and Coates. Further, as Mizuno merely discusses a cross-call administration table with identifiers indicating I/O paths through which replies to requests from host computers can be transmitted (see, Fig. 5), Mizuno does not cure the deficiencies of AAPA and Coates regarding claim 1 of the present application.

It is respectfully submitted that none of the cited references teach or suggest "dynamically switching" to first or second system where the switch to the second system is maintained for "a predetermined time and thereafter switches the system to said first system", including the additional features recited in dependent claims 3-8, 12-17, and 21-26.

Therefore, withdrawal of the rejection is respectfully requested.

#### CONCLUSION:

There being no further outstanding objections or rejections, it is respectfully submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters. If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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